

**CALIFORNIA COASTAL COMMISSION**

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SAN FRANCISCO, CA 94105-2219  
VOICE AND TDD (415) 904-5200



26 July 2005

TO: Interested Parties

FROM: Peter M. Douglas, Executive Director

SUBJECT: Notice of Proposed Changes to the California Coastal Management Program

**Notice of Action**

Pursuant to the federal Coastal Zone Management Act regulations (15 CFR §§ 923.80-923.84), the California Coastal Commission hereby provides notice that it is submitting the statutory changes to the California Coastal Management Program (CCMP) described below to the National Oceanic and Atmospheric Administration's Office of Ocean and Coastal Resource Management (OCRM).

The Commission considers the changes described below to be "routine program changes" to the federally-approved California Coastal Management Program. OCRM will review these changes to ensure they do not constitute an amendment as defined in section 923.80 of Title 15 of the Code of Federal Regulation. Comments may be submitted to OCRM within three weeks of the date of this notice (see below).

**Background**

The federal Coastal Zone Management Act of 1972 (CZMA) established a voluntary program to encourage states to develop and implement programs to manage the nation's coastal resources. The CZMA is administered by the National Oceanic and Atmospheric Administration (NOAA) within the U.S. Department of Commerce. The CZMA establishes minimum standards for state coastal management programs and provides federal grant assistance and federal consistency authority to states with approved programs. In 1977, the CCMP was approved as meeting the standards of the CZMA. The CCMP includes the California Coastal Act of 1976 (California Public Resources Code, Division 20), which is administered by the California Coastal Commission.

Under the requirements of the CZMA and its implementing regulations, changes to California's approved management program can be incorporated into the CCMP either as "routine program change or "amendments". The federal regulations define an amendment as "substantial changes in one or more of the following coastal management areas: (1) uses subject to the management program; (2) special management areas; (3) boundaries; (4) authorities and organization; and (5) coordination, public involvement and the national interest. (15 CFR § 923.80(d)). Routine program change is defined as "(f)urther detailing of a State's program that is the result of implementing provisions approved as part of a State's approved management program, that does not result in the type of action described in Section 923.80(d)... " (15 CFR § 923.84).

**Proposed Changes**

The Commission proposes to incorporate the following changes to the California Coastal Act into the California Coastal Management Program:

1. AB 988 (Hertzberg) (2000: Chapter 952)

AB 988 requires the Commission to draft and, after public hearing and consultation with the City of Malibu, to certify a Local Coastal Program for the City of Malibu by September 15, 2002. The city must assume coastal development permit authority within 30 days of certification. AB 988 added PRC §30166.5.

2. AB 1913 (Lowenthal) – Coastal Development: Enforcement (2002: Chapter 235)

AB 1913 establishes an additional mechanism to enforce the Coastal Act: the notice of violation. The statute authorizes the Executive Director of the Commission to send a property owner a notice of intent to record a notice of violation if the Executive Director has determined the property has been developed in violation of the Coastal Act. If the property owner objects to the notice of intent, the Commission must hold a public hearing to determine if a violation has occurred. If the Commission determines that a violation has occurred or if the property owner does not object to the notice of intent, the Executive Director shall record the notice of violation in the appropriate county recorder's office. The statute provides for the rescission of a recorded notice of violation upon resolution of the violation or at any other time for cause. Regarding implementation, when evaluating enforcement actions, the Executive Director may now consider initiating notice of violation proceedings instead of, or in addition to, other enforcement mechanisms such as cease and desist orders and restoration orders. AB 1913 added Public Resources Code § 30812.

3. AB 2158 (Lowenthal) – Coastal Development: Affordable Housing (2002: Chapter 297)

This statute requires the Commission to take appropriate steps to ensure that coastal development permit conditions existing as of January 1, 2002, relating to affordable housing are enforced and do not expire during the term of the permits. The bill was prompted by concerns relating to the implementation of affordable housing conditions of coastal development permits issued during the late 1970s and early 1980s. AB 2158 added Public Resources Code § 30614.

The Commission has provided a grant to the non-profit organization that administers the affordable housing program established by the Commission. The organization will use this funding to track affordable units created pursuant and to take the actions necessary to ensure that the units remain in, or are brought back into, the affordable housing program.

4. SB 1164 (Sher) – Local Coastal Programs: Costs (2002: Chapter 1104)

SB 1164 authorizes payment of litigation costs to local governments prior to the rendering of final judgment where the local government would not have incurred the costs but for the operation of a certified local coastal program. The amount may not exceed \$500,000 and must equal or exceed five percent of the local government's general revenues. SB 1164 amended Public Resources Code § 30353.

5. AB 16 (Jackson) Oil and Gas Development. (2003: Chapter 420)

AB 16 requires that all new or expanded oil and gas production produced offshore must be transported onshore by pipeline, rather than by tanker or barge. Once onshore, the oil must be shipped via pipeline

to an onshore processing facility. It also requires the use of best achievable technology. AB 16 amends PRC Section 30262.

6. AB 1212 (Pavley) Coastal Development Permits. (2003: Chapter 285)

AB 1212 requires that any coastal development permit issued for the purpose of sand replenishment must include a condition for onsite monitoring, and prohibits the permit from being issued until the applicant provides a plan for onsite monitoring and supervision. AB 445 amends PRC Section 30607.

7. SB 445 (Kuehl) Coastal Access. (2003: Chapter 337)

SB 445 requires that non-profits must submit to the Executive Directors of both the Commission and the Coastal Conservancy a management plan before assuming the operation of a public accessway. This bill also permits the Coastal Conservancy the right of re-entry to re-claim an accessway, if the Conservancy and the Commission determine that it is not being managed consistent with its management plan. SB 445 also shifts the Coastal Access Account from the General Fund to the Coastal Conservancy Fund. SB 445 amends PRC Section 30610.3 and amends PRC Section 31402.3.

8. SB 600 § 252 (Judiciary Committee). (2003: Chapter 62)

Section 252 of SB 600 corrects a typographical error in PRC Section 30812, changing "records" to "recorder." SB 600 amends PRC Section 30812.

9. SB 619 § 7 (Duchenev) Housing. (2003: Chapter 793)

Section 7 of SB 619 encourages low and moderate income housing, and prevents the Commission and issuing agencies from requiring measures that reduce residential densities of low and moderate income housing project below the density sought by an applicant if that density is within the permitted density established by local zoning, unless a finding is made that the density sought by the applicant cannot feasibly be accommodated on the site in a manner that is in conformity with Chapter 3 policies or the certified local coastal program. The bill also makes legislative findings that efficient land use is protective of coastal resources. SB 619 amends PRC Section 30604.

10. AB 888 (Kehoe) California Coastal Commission: Membership. (2004: Chapter 746)

AB 800 eliminates the Secretary of Trade and Commerce as an ex-officio member of the Coastal Commission, and makes other technical conforming changes to the statute in Sections 30301.2, 30301.5, 30512, and 30514.1. The bill also repeals the following obsolete sections: 30310(a) and 30512.1. AB 800 amends PRC Section 30301

11. AB 2252 (Montanez) Vacation Ownership and Timeshare Act of 2004. (2004: Chapter 697)

AB 2252 makes conforming changes in reference to the Business and Professions Code, which defines a time share project, estate, or use. AB 2252 amends PRC Section 30610

12. AB 3082 (Committee on Judiciary) Maintenance of the Codes. (2004: Chapter 183).

AB 3082 corrects non-substantive, grammatical changes to statute 30610.3. AB 3082 amends PRC Section 30610.3

13. SB 1264 (Committee on Natural Resources) Natural Resources. (2004, Chapter 286).

SB 1264 repeals PRC Section 30237 relating to the Bolsa Chica wetlands. This section authorized the landowner to petition the Department of Fish and Game to prepare a habitat conservation plan for the Bolsa Chica wetlands, and laid out provisions for its contents and preparation process. This Section of the Coastal Act is obsolete, as the Bolsa Chica wetlands are now in public ownership and are subject to a separate restoration project.

### **Determination of Routine Program Change**

Incorporating the California Coastal Act legislative changes into California's coastal management program will not substantially change the program's enforceable policies or authorities as specified in section 923.80(d) of Title 15 of the Code of Federal Regulations. The changes made to the California Coastal Act further detail the CCMP and, therefore, constitute "routine program change" to the Commission's federally-approved coastal management program as defined in 15 CFR 923.84(a). The amendments to California's law do not substantially change: (1) uses subject to the Commission's coastal management program; (2) the criteria or procedures for designating or managing areas of particular concern or areas for preservation or restoration; (3) the coastal zone boundaries; (4) the authorities or organizational structure of the program; or (5) coordination with governmental agencies, the general public, or interest groups. The changes do not add any enforceable policies to the CCMP.

Concurrent with the issuance of this notice, I am formally notifying NOAA's Office of Ocean and Coastal Resource Management of this determination, requesting their concurrence in this determination, and asking that the changes be incorporated into the federally-approved California Coastal Management Program. In addition, as of, 29 July 2005, I am notifying all interested federal, state and local entities, and all other interested parties, of this request for OCRM's concurrence with my determination that the legislative amendments constitute routine program change.

A copy of the letter sent to the Office of Ocean and Coastal Resource Management is posted on the Coastal Commission website. A complete text of these bills is available from the Coastal Commission upon request; contact Rebecca Roth, the Commission's Federal Programs Manager, at 415.904.5264. The text of these bills is also available on web at [www.leginfo.ca.gov/bilinfo.html](http://www.leginfo.ca.gov/bilinfo.html).

**All comments must be received by OCRM by 19 August 2005 and should be sent to the following address:**

Mr. John King, Chief  
Coastal Programs Division  
Office of Ocean and Coastal Resource Management  
National Oceanic and Atmospheric Administration  
1305 East West Highway, 11th Floor  
Silver Spring, MD 20910

Copies may be sent to the Federal Programs Division of the Coastal Commission:

Rebecca K. Roth, Federal Program Manager  
California Coastal Commission  
45 Fremont Street, Suite 2000  
San Francisco, CA 94105